

REMARKS

The Examiner noted that the information disclosure statement filed on March 21, 2001 indicates that the listed references are provided in parent application no. 09/625,904. However, upon review of the file for U.S. application no. 09/625,904, the Tomlin (AA3) reference was not provided. Accordingly, Applicants submit herewith a copy of the Tomlin (AA3) reference.

Claims 26, 39 and 40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-19 of U.S. Patent No. 5,880,333 and over claims 1, 8, 11, 12, 16, 26, 27, 29, and 30 of U.S. Patent No. 6,147,282.

In response, Applicants submit herewith a Terminal Disclaimer to Obviate a Double Patenting Rejection Over a Prior Patent to overcome the double patenting rejection. The owner of the instant application is Syngenta Investment Corporation. The original owner was Ciba-Geigy Corporation through an Assignment from the inventors (a copy of which is enclosed). Ciba-Geigy Corporation changed its name to Novartis Corporation (recorded at Reel/Frame Nos. 9507, 0112-0114). Novartis Corporation assigned the instant application to Novartis Finance Corporation and then Novartis Finance Corporation assigned the instant application to Syngenta Investment Corporation (copies of which are enclosed).

No new matter has been added.

Applicants submit herewith \$220 for the two Terminal Disclaimers. A Credit Card Payment Form is enclosed for fee processing. If any additional fees are deemed to be required,

the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-1744 in the name of Syngenta Biotechnology, Inc.

It is submitted that the application is now ready for allowance. If any additional information is needed, the Examiner is invited to call the undersigned at (919) 765-5071.

Respectfully submitted,

A handwritten signature in cursive script, reading "Mary Kakefuda", written over a horizontal line.

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Date: 9/2/04